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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,006	08/17/2004	Jack Klootz	10885.3802	5005
22235	7590	03/06/2006	EXAMINER	
MALIN HALEY AND DIMAGGIO, PA 1936 S ANDREWS AVENUE FORT LAUDERDALE, FL 33316			PAYNE, SHARON E	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/711,006

Applicant(s)

KLOOTZ, JACK

Examiner

Sharon E. Payne

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9 and 12-16 is/are rejected.
- 7) ☒ Claim(s) 7, 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 5, 12-16 are objected to because of the following informalities: 1) the words "small" and "lightweight" of claim 5 are terms of degree that are not defined in the specification or the claims; and 2) the phrase "said elements" in line 7 of claim 5 should be "said LED light source, the pair of collimating lenses and the fiber optic rod." Claims 12-16 are necessarily included due to their dependency. Appropriate correction is required.

2. Claim 14 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. A pair of collimating lenses always has a first and second one.

### ***Claim Rejections - 35 USC § 112***

3. Claims 5 and 12-16 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted element is the power source. (The apparatus cannot run without one.) Claims 12-16 are necessarily included due to their dependency.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 4, 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Springer (U.S. Patent 2,893,379) in view of Yamashita (U.S. Patent 4,599,537), Lilly (U.S. Patent 3,461,346) and Lagerway et al. (U.S. Patent 5,774,271).

Regarding claim 1, Springer discloses a headlight housing (Fig. 1) including a light source (Fig. 3) and a light path from the lens assembly in the headlight housing to emit light outside the headlight housing to a surgical area (Fig. 5, right). Springer does not disclose an LED or a fiber optic rod or a variable electric power source or a lens in direct communication with the fiber optic rod.

Yamashita discloses an LED light source (reference number 1) and a fiber optic rod (reference number 31) disposed adjacent and abutting the LED light source (Fig. 6).

Lilly discloses an electrical power source that is variable for providing power to the LED light source connected to the light source (column 2, lines 39-45).

Lagerway et al. discloses a lens assembly (reference numbers 42 and 44) in direct optical communication with the output of the fiber optic rod (Fig. 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the LED of Yamashita to replace the light source of Springer to make the apparatus have less weight, use less power and produce less heat.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the variable source of Lilly and connect it to the light source of Yamashita in the apparatus of Springer to vary the intensity of the light source (column 2, line 66, to column 3, line 3, of Lilly).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Lagerway et al. in the apparatus of Springer and Yamashita to

collimate the light to adequately illuminate a work space. See column 1, lines 10-20, of Lagerway et al.

Concerning claim 2, Springer discloses means for attaching the headlight housing to a headband to be worn by a surgeon (Fig. 1).

Regarding claim 4, Springer does not disclose a mirror. Lagerway et al. discloses a mirror (reference number 60) mounted in the light path from the lens assembly to the housing light outlet (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the mirror of Lagerway et al. in the apparatus of Springer to direct light to the precise spot desired. See Fig. 3 of Lagerway et al.

Regarding claim 6, Springer and Yamashita do not disclose a plurality of optic strands. Lagerway et al. discloses a bundle or bundles of a plurality of optic strands (reference number 19).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Lagerway et al. in the apparatus of Springer and Yamashita to conduct more light from the light source, thus increasing efficiency of the apparatus.

Concerning claim 8, Springer does not disclose a collimating lens. Lagerway et al. discloses one or more collimating lenses (reference numbers 42 and 44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the lenses of Lagerway et al. in the apparatus of Springer to collimate the light to light the operating area sufficiently (column 1, lines 15-25, of Lagerway et al.).

Regarding claim 9, Springer does not disclose a collimating lens. Lagerway et al. discloses a first collimating lens (reference number 42) and a second collimating lens (reference number 44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the lenses of Lagerway et al. in the apparatus of Springer to collimate the light to light the operating area sufficiently (column 1, lines 15-25, of Lagerway et al.).

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Springer in view of Yamashita, Lilly and Lagerway et al. as applied to claim 1 above, and further in view of Wong et al. (U.S. Patent 6,390,640) and Gonser et al. (U.S. Patent 5,003,434).

Regarding claim 3, Springer, Yamashita, Lilly and Lagerway et al. do not disclose a white light source of approximately 5,500 Kelvins, the light source being on a circuit board.

Wong discloses the LED light source (reference number 27) being connected to a circuit board (reference number 35) mounted in the headlight housing (Fig. 3).

Gonser et al. discloses a white light source of approximately 5,500 degrees Kelvin (column 3, lines 40-53).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Wong in the apparatus of Springer, Yamashita, Lilly and Lagerway et al. to easily get current to the light source.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the light source of Gonser in the apparatus of Springer, Yamashita, Lilly and Lagerway et al. to provide the best color temperature for illuminating a person's mouth. See column 3, lines 40-53, of Gonser.

7. Claims 5, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Springer in view of Yamashita and Lagerway et al.

Regarding claim 5, Springer discloses a small, lightweight housing with an opening for emitting light (Figs. 1 and 3) with the light source in the housing (Fig. 3). Springer does not disclose an LED, an optical fiber rod or a pair of collimating lenses.

Yamashita discloses an LED light source (reference number 1) in physical contact with an abutting a fiber optic rod that forms a direct light optical channel (reference number 31, Fig. 6).

Lagerway et al. discloses a pair of collimating lenses (reference numbers 42 and 44) in direct optical communication with the fiber optic rod (reference number 19, Fig. 3), with the collimating lenses in the housing (Fig. 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the LED of Yamashita to replace the light source of Springer to produce less heat, make the apparatus lighter and use less energy.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Lagerway et al. in the apparatus of Springer to collimate the light to light up the operating table efficiently.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to put the LED, fiber optic in the housing of Springer, replacing Springer's light source, so that all of the elements are protected by the housing.

Concerning claim 12, Springer and Yamashita does not disclose a bundle of fiber optic strands. Lagerway et al. discloses a bundle of fiber optic strands (reference number 19).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Lagerway et al. in the apparatus of Springer and Yamashita to conduct more light from the light source, thus increasing efficiency of the apparatus.

Regarding claim 14, this claim fails to narrow claim 5 for the reasons stated above, and this claim is rendered obvious for the reasons given in the analysis of claim 5.

***Allowable Subject Matter***

8. Claims 7, 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 13, 15 and 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

10. The following is a statement of reasons for the indication of allowable subject matter. The prior art does not disclose a headlight with the following features:

1) a proximal end of the fiber optic rod that is a hemispherical concave shape as recited in claims 7 and 13;

2) the first collimating lens is in direct physical contact with a distal end and output end of the fiber optic rod so that the distal end of the fiber optic rod abuts against the first collimating lens as recited in claims 10 and 15.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

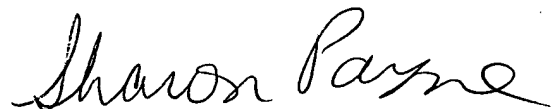
**Conclusion**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (571) 272-2379. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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